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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,042

03/10/2004

Wayd A. McNally

16385-US

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10/31/2007

MARKS & CLERK

P.O. BOX 957

STATION B

OTTAWA, ON K1P 5S7

CANADA

EXAMINER

FAYYAZ, NASHMIYA SAQIB

ART UNIT

PAPER NUMBER

2856

MAIL DATE

DELIVERY MODE

10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/796,042

Applicant(s)

MCNALLY, WAYD A.

Examiner

Nashmiya S. Fayyaz

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 9-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3-6 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roche et al- US Patent # 6,830,650. As to claims 1 and 40, Roche et al disclose a wafer probe and associated method for measuring processing environment conditions including enclosure (58) in the form of a wafer, a plurality of sensors (48,50,52) for monitoring for conditions, a processor (64) and wireless radio transceiver (72 with radio antenna 70), see Fig. 3 and col. 6, lines 13 et seq. Further, it is noted that

a wireless receiver has not been depicted. However, given that the transceiver 72 is wireless, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included a wireless receiver to receive the signals transmitted from the wireless transceiver as also depicted in the fig. 1 embodiment as transceiver 38. As to claim 3, the probe is in the shape of simulates the height, note "4)" in col. 13. As to claim 4, note "3)" in col. 13 which indicates hermetically sealing the packaging and usage of two enclosure portions would have been obvious given that in order to seal the package with the electronics inside, there would have to be 2 enclosure portions, at least along with retaining means to maintain the hermetic sealing. As to claim 5, note that the electronics are depicted on a wafer 14, note fig. 2a where usage of a plurality of such wafers is considered to have been obvious to one of ordinary skill in the art at the time of the invention to have included in order to reduce wear. As to claim 6, Roche et al include a temperature sensor 50.

3. Claims 1, 3, 6-8 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vock et al- US Patent # 7,174,277. As to claims 1 and 40, Vock et al disclose system 866 and associated method for monitoring environmental conditions including an enclosure (package 867) which may be embedded with other packages during processing (shipping), a plurality of sensors (device 840/865) for monitoring

environmental conditions continuously from within the package, a processor 848 and a wireless receiver 850, see figs. 53 and 54 and col. 52, lines 49 et seq. Further, it is noted that Vock et al do not specifically identify a radio transceiver or that the processor derives a parameter value from the sensor measurements. However, it is noted that Vock et al does indicate the data is wirelessly communicated as wireless data 863.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included a wireless transceiver in order to accomplish the recited wireless communications since it is known to use wireless transceivers for wireless transmissions and communications port 854 is depicted in fig. 53. As to usage of the processor to derive a parameter value, it is indicated that the processor serves to manage and control the device 840, see col. 53, lines 10-11. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have realized that any processing of the signals would be done in the processor since it is recited as the managing and control device. As to claim 3, the shape of the enclosure is a package as is used in shipping. As to claim 6, Vock et al indicates monitoring impact and temperature, etc. see col. 53, lines 13-25. As to claim 7, note col. 2, lines 8-17. As to claim 8, Vock et al fail to specify what kind of impact sensors are employed. However, in a different embodiment of fig. 39, Vock et al specify usage of a

three axis accelerometer 510 to measure impacts. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have specified the impact sensor in the embodiment of fig. 53-54 as a 3 axis accelerometer given the prior teaching of such usage in the fig. 39 embodiment to give a more thorough assessment of the impact and the directional aspects.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-8 and 40 have been considered but are moot in view of the new ground(s) of rejection.

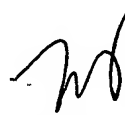
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Mondays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



NFayyaz
Examiner
Art Unit 2856

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10/26/07



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